



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 14, 1995

Ms. Celamaine Cunniff
Regional Attorney
Texas Department of Protective
and Regulatory Services
P.O. Box 4300
Tyler, Texas 75712

OR95-962

Dear Ms. Cunniff:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33820.

The Texas Department of Protective and Regulatory Services (the "department") received an open records request for the records of the department's investigation of the alleged abuse of the requestor's child.¹ You contend that the requested records are excepted from required public disclosure by sections 552.103 and 552.108 of the Government Code because "there is a pending criminal investigation arising from this case in Hunt County." Additionally, you have submitted to this office, along with the records at issue, a letter from Hunt County Attorney Peter Morgan asking that these records be withheld from the public at this time because of the pending criminal investigation in Hunt County.

Although you raise exceptions to required public disclosure under the Open Records Act to protect the department's records of its investigation, we conclude that the provisions of chapter 34 of the Family Code govern the release of these records. Chapter 34 concerns, among other things, reports of child abuse to local law enforcement agencies. Section 34.08(a) of the Family Code provides:

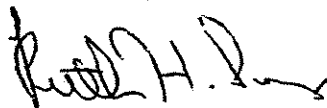
¹In this instance the requestor is not the alleged perpetrator.

Except as provided in Subsections (b) and (c) of this section, the reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

Subsections (b) and (c) relate to the disclosure of records concerning an investigation of an adopted child to the adoptive parents, prospective adoptive parents, or to the child upon reaching adulthood. Neither subsection is applicable to the current request. Consequently, the requested records are confidential under section 34.08 and may not be released to the public. *But see* Fam. Code § 34.051(3) (department must advise *parent under investigation* of right to review all records of department's investigation unless review would jeopardize ongoing criminal investigation).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy", with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/RWP/rho

Ref.: ID# 32363

Enclosures: Submitted documents